

# UNITED STATES DISTRICT COURT

for the  
District of New Mexico



In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

Gray in color 2020 Nissan Versa, Arizona License  
Plate 9CA4SA. Located at Total Secure Towing 805  
South Riverside Drive, Espanola New Mexico 87532

Case No. **22 MR 160**

## APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 USC § 1153	Offenses committed within Indian Country
18 U.S.C. § 1112 (a)	Involuntary Manslaughter
NMSA 66-8-113	Reckless Driving
NMSA 66-8-102	III

The application is based on these facts:

See Attached Affidavit.

☒ Continued on the attached sheet.

☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

**NICHOLAS MILLEF** Digitally signed by NICHOLAS MILLEF  
Date: 2022.02.01 14:24:31 -07'00'

Applicant's signature

Nicholas Miller, Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by

Telephonically sworn and Electronically Signed (specify reliable electronic means).

Date: 02/01/2022

City and state: Albuquerque, New Mexico

  
Judge's signature

Laura Fashing, U.S. Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE**  
**DISTRICT OF NEW MEXICO**

IN RE: 2020 Nissan Versa Sedan     )  
Arizona License Plate 9CA4SA     )  
currently located at Total Secure     )  
Towing, 805 South Riverside Drive     )  
Espanola, New Mexico 87532     )  
\_\_\_\_\_

**AFFIDAVIT**

Nicholas Miller, being duly sworn, depose and state as follows:

1.       The Affiant has been a Law Enforcement Officer for 14 years and performed law enforcement duties as a Police Officer, Police Canine Handler, and Supervisory Police Officer while employed with various Law Enforcement entities. The Affiant attended Oklahoma Council on Law Enforcement Training (CLEET) for basic police training. The Affiant attended Federal Law Enforcement Training Center (FLETC) Bridge Indian Police Academy (IPA) for basic Indian County police training. The Affiant attended FLETC Department of the Interior Investigator Training Program (DOI ITP). For the past 11 years, the Affiant have been employed with the Bureau of Indian Affairs (BIA), Office of Justice Services (OJS), and am currently a Special Agent. The Affiant's primary duties as a Special Agent are to investigate felony criminal offenses, which occur within the exterior boundaries of the Indian reservations to which the Affiant is assigned. Involuntary Manslaughters investigations are one of these responsibilities. The information set forth in this affidavit is

known to the Affiant as a result of his own investigation or has been communicated to him by other law enforcement officers, agencies or agents.

2. The information set forth in this affidavit has been derived from an investigation conducted by Nicholas Miller, BIA Special Agent, Todd Sibley, New Mexico State Police Crash Reconstruction Unit, Santa Clara Tribal Police, Officer Joe Griego, as well as other law enforcement officers with the Espanola Police Department, New Mexico State Police, and Santa Clara Tribal Police Department. Affiant believes there to probable case that a Federal Crime was committed under Crimes in Indian Country 18 USC 1153, Involuntary Manslaughter 18 USC 1112 (a), New Mexico State Statue Assimilated, and Reckless Driving 66-8-113.

#### PROBABLE CAUSE

3. On January 14, 2022, at approximately 10:57 P.M., Espanola Police Dispatch received a 911 phone call reporting a motor vehicle crash. Espanola Police Department, Espanola Emergency Medical Services, New Mexico State Police and Santa Clara Tribal Police were dispatched to scene.

4. Officers arrived on scene and noted one person J.B. 12/05/1979 laying on the ground with two other individuals, A.A. 07/30/1987, and P.S. 03/17/1991 inside the vehicle (gray in color 2020 Nissan Versa bearing Arizona License Plate 9CA4SA). Officers on scene transported P.S., by patrol unit to Presbyterian Espanola Hospital. P.S. being one of the registered owners of said vehicle was located in the driver's compartment of the vehicle. At this point it is uncertain whether P.S. was the driver of the vehicle at the time of the crash. Affiant anticipates conducting further interviews on this subject once the participants are able

to communicate freely. J.B. who was located on the ground was transported by Emergency Medical Services to Presbyterian Espanola Hospital.

5. A third individual, A.A. who was located inside the vehicle was deceased at the time of Emergency Medical Services arrival.

6. P.S. and J.B. were later flown from Presbyterian Espanola Hospital to University of New Mexico Hospital for a higher level of care.

7. A witness on scene stated the vehicle in question was traveling at a high rate of speed, traveling north on Highway 30. The vehicle passed a semi-tractor-trailer stopped at a traffic light, on the left causing the vehicle to drive over the curb. The vehicle continued through the intersection and drove through an automotive repair shop parking lot and struck an unattended parked vehicle and a pole.

8. During scene processing by Office of Medical Investigator (OMI) located next to the decedent was an open bottle of an alcoholic beverage and a can of Lysol.

9. This search warrant would be for the purpose of securing evidentiary items within the vehicle and documentation of damage through collection of evidence and photographs. The Event Data Recorder which needs to be downloaded or retained. The EDR can be used in determining information regarding the vehicle's operation at the time of the crash. Photos, and measurements will be obtained of the vehicle. The information would be material in a criminal prosecution. The EDR data collection will be performed by the New Mexico State Police Reconstruction Team Member(s) under the direction of SA Miller.

10. Your affiant believes there is probable reason to search the vehicle for evidence of a crime of: 18 USC 1153, Offenses committed within Indian Country, and 18 USC 1112a Involuntary manslaughter.

This affidavit has been reviewed for probable cause sufficiency by Supervisory Assistant United States Attorney Kyle Nayback of the District of New Mexico.

I swear that this information is true and correct to the best of my knowledge and belief.

Affiant:

NICHOLAS MILLER

Digitally signed by NICHOLAS  
MILLER  
Date: 2022.02.01 14:25:32 -07'0

Nicholas Miller  
Special Agent  
Bureau of Indian Affairs

Sworn to before me by telephone or other reliable electronic means.

PO

~~sworn before me~~ this  
1st day of February  
2022.


  
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A  
ITEMS TO BE SEARCHED

- 1) Gray in color 2020 Nissan Versa, Arizona License Plate 9CA4SA. Located at Total Secure Towing 805 South Riverside Drive, Espanola New Mexico 87532

**ATTACHMENT B  
ITEMS TO BE SEIZED**

**AFFIANT SEEKS EVIDENCE RELATING TO CRIMES OF INVOLUNTARY  
MANSLAUGHTER BY DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS AND  
RECKLESS DRIVING RESULTING IN DEATH**

1. Driver's licenses and any other forms of identification.
2. Alcoholic beverages and alcoholic beverage containers containing any amount of beverage whether open or closed.
3. Prescription narcotics and prescription narcotics containers containing any amount of narcotic whether open or closed.
4. Illegal narcotics and any other controlled substances and suspected illegal narcotics and any other suspected controlled substances including, but not limited to any drug or substance listed in Schedules I through V of the Controlled Substance Act.
5. Illegal narcotics paraphernalia, including to all equipment used in storing, containing, concealing, injecting, ingesting, inhaling and otherwise introducing into the human body, a controlled substance or controlled substance analog in violation of the Controlled Substance Act.
6. Cell phones (If any cell phone is found, a further search warrant will be sought to search its contents.) 
7. A complete mechanical inspection of the herein-described vehicle, to be searched including the event data recorder.
8. Items which establish or tend to establish possession and use of vehicle, to be searched.
9. Photos of the vehicle.
10. Event Data Recorder which needs to be downloaded or retained. The EDR can be used in determining information regarding the vehicle's operation at the time of the crash, such as speed, braking, and steering.